

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

OJORE MULUMBA AJAMU VII,)
)
Plaintiff,) 8:05cv319
)
vs.) MEMORANDUM AND ORDER
)
DR. GENSLER, et al.,)
)
Defendants.)

This matter is before the court on Filing No. 36, the Motion for Summary Judgment filed by one of the defendants, Dr. Thomas Gensler. The defendant argues that the plaintiff, Ojore Mulumba Ajamu VII, has not exhausted his administrative remedies, in compliance with 42 U.S.C. § 1997e(a) of the Prison Litigation Reform Act ("PLRA"), because, after the plaintiff submitted his initial grievance, he did not appeal the matter to the Chief Deputy of the Douglas County Correctional Center ("DCCC").

In a Memorandum and Order of February 26, 2007 (Filing No. 58), the court explained that a failure to respond to a summary judgment motion may result in the entry of judgment in favor of the moving party. In that Memorandum and Order (Filing No. 58), the court speculated as to possible reasons why the plaintiff may not have filed a second grievance. However, because it is the plaintiff's obligation to respond to a summary judgment motion filed by the defendant, the court gave the plaintiff until March 9, 2007 to file a verified statement explaining any reason he may have why he did not file a Chief Deputy grievance.

The plaintiff has not explained why he did not file a Chief Deputy grievance. The plaintiff filed a response (Filing No. 59), but the response consisted only of a verification, but no explanation.

Thus, the defendant's Motion for Summary Judgment stands unrebuted. Filing No. 36, Dr. Gensler's Motion for Summary Judgment is granted, and Dr. Gensler is dismissed from this litigation. This case will proceed against the co-defendant, Douglas County, Nebraska.

SO ORDERED.

Dated this 13th day of March, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge